

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ANTHONY PERRI,

Plaintiff,

ORDER
06 CV 403 (CBA) (LB)

-against-

SERGEANT BARRITEAU; P.O. SUSAN
SAVIANO; P.O. JOSEPH DITUCCI; and
THE CITY OF NEW YORK,

Defendants.

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BLOOM, United States Magistrate Judge:

As set forth in the Order dated March 14, 2008, the Court has invested time and resources to try to resolve this case. Plaintiff was ordered to timely appear on April 10, 2008. Although plaintiff arrived thirty minutes late for the conference, the Court accepted his explanation and apology. The Court informed plaintiff that in light of his previous failures to appear, the Court shall not excuse any failure to appear in the future.

This is plaintiff's action to vindicate his rights. "[A]ll litigants, including pro ses, have an obligation to comply with court orders." Minotti v. Lensink, 895 F.2d 100, 103 (2d Cir. 1990). The "special solicitude" that the Court must afford a *pro se* litigant, "does not extend to the willful obstinate refusal to play by the basic rules of the system upon whose very power the plaintiff has called to vindicate her rights." Quilles v. Beth Israel Medical Center, 168 F.R.D. 15, 19 (S.D.N.Y. 1996) (quoting McDonald v. Head of Criminal Court Supervisor Center, 117 F.R.D. 55, 58 (S.D.N.Y. 1987), aff'd 850 F.2d 121 (2d Cir. 1988)).

The Court set June 16, 2008 as the deadline for the parties to complete all discovery. **The Court hereby orders plaintiff to timely appear for his deposition on Thursday, May 22, 2008 at 10:00 a.m.** in Room 208 on the 2nd floor of the United States Courthouse, 225 Cadman Plaza East,

Brooklyn, New York 11201. This is a Court Order and plaintiff must comply. Plaintiff should be prepared to answer defendants' questions under oath for seven hours as provided under Fed. R. Civ. P. 30.

Should plaintiff fail to timely appear at 10:00 a.m. for his deposition on May 22, 2008, defendants shall immediately notify the Court in writing and I shall recommend that plaintiff's case should be dismissed with prejudice under Federal Rule of Civil Procedure 37(b), (d). See Valentine v. Museum of Modern Art, 29 F.3d 47, 49 (2d Cir. 1994) ("The severe sanction of dismissal with prejudice may be imposed even against a plaintiff who is proceeding pro se, so long as warning has been given that noncompliance can result in dismissal."); Bobal v. Rensselaer Polytechnic Institute, 916 F.2d 759 (2d Cir. 1990) (dismissal for failure to appear at deposition is appropriate pursuant to Fed. R. Civ. P. 37(d)).

Defendants shall inform the Court by July 16, 2008 whether they intend to file a dispositive motion; defendants' letter shall set forth the basis for the motion as well as a proposed briefing schedule.

SO ORDERED.

/S/


LOIS BLOOM

United States Magistrate Judge

Dated: April 15, 2008
Brooklyn, New York